

Inventor: Ingles, Pat

Appl. No. 10/722,153

Filed: November 25, 2003

Atty. Docket No. 21480-RA

Response to Office Action of June 19, 2007

This Response Dated: December 19, 2007

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### **REMARKS/ARGUMENTS**

#### **Status (Disposition) of Claims**

Claims 1, 3-7, 17-18, 21, 24-30, 32-33, 35-39, 49-50, 53, 56-62, 64-65, 67-71, 81-82, 85, 88-94, 96, and 108-113 remain pending in the application, all presently standing rejected as set forth in the Office Action of June 19, 2007.

#### **102(b) Rejections**

In the Office Action of June 19, 2007, the Examiner rejected claims 1, 3-7, 17, 21, 24-28, 30, 32, 108, 109 and 110 under 35 U.S.C. 102(b) as being anticipated by LeFleur (U.S. Pat. No. 5,607,237).

Applicant respectfully submits that amended claims 1, 33, 65, 108, and 110-113 define over the cited reference and are in condition for allowance. Accordingly, Examiner's rejection of all claims depending therefrom is moot. Applicant further requests that all withdrawn claims depending from claims 1, 33 and 65, namely claims 8-14, 22-23, 31, 40-46, 54-55, 63, 72-78, 86-87 and 95, be reinstated.

#### **103(a) Rejections**

In the Office Action of June 19, 2007, the Examiner rejected claims 18 and 113 under 35 U.S.C. 103(a) as being unpatentable over LeFleur (U.S. Pat. No. 5,607,237) in view of Kim (U.S. Pat. No. 6,467,955). The Examiner further rejected claim 29 as being unpatentable over LeFleur (U.S. Pat. No. 5,607,237) in view of Meixelsperger et al. (U.S. Pat. No. 6,866,073). The Examiner further rejected claims 33, 35-37, 49, 64, 65, 67-69, 81, and 96 as being unpatentable over Nattrass (U.S. Pat. No. 6,056,440). The Examiner further rejected claims 33, 35-38, 39, 49, 53, 56-60, 62, 64, 65, 67-71, 81, 85, 88-92, 94, 96, 111, and 112 as being unpatentable over LeFleur (U.S. Pat. No. 5,607,237) in view of Nattrass (U.S. Pat. No. 6,056,440). The Examiner further rejected claims 50 and 82 as being unpatentable over LeFleur (U.S. Pat. No. 5,607,237) in view of Nattrass (U.S. Pat. No. 6,056,440) as applied to claims 38, 39, 53, 56-59, 60, 62, 70, 71, 85, 88-92, 94, 111, and 112, and further in view of Kim (U.S. Pat. No. 6,467,955). The Examiner further rejected claims

61 and 93 as being unpatentable over LeFleur (U.S. Pat. No. 5,607,237) in view of Nattrass (U.S. Pat. No. 6,056,440) as applied to claims 38, 39, 53, 56-59, 60, 62, 70, 71, 85, 88-92, 94, 111, and 112, and further in view of Meixelsperger et al. (U.S. Pat. No. 6,866,073).

Applicant respectfully submits that amended claims 1, 33, 65, 108, and 110-113 define over the cited reference and are in condition for allowance. Accordingly, Examiner's rejection of all claims depending therefrom is moot. Applicant further requests that all withdrawn claims depending from claims 1, 33 and 65 be reinstated.

In summary, Applicant has amended claims 1, 33, 65, 108, and 110-113 to include a limitation directed to a loop extension (alternately, loop support extension). Applicant respectfully calls to the Examiner's attention, as further explained below, that none of the cited references provides, or teaches the benefits of, such a feature for use in association with the claimed bag-like structure of applicant's invention in association with the material storage reservoir or material distribution means. Rather, the cited art demonstrate support means in the form of loops, ties/bungees (*see*, Meixelsperger et al., U.S. Pat. No. 6,866,073), and the like. The disclosure of each of the cited references provides for affixation of the referenced device at a uniform distance and tension from the attachment point. The disclosure in Meixelsperger et al. (U.S. Pat. No. 6,866,073) describes the use of the tie/bungee to maintain uniform tension so that the device does not drag along the ground and become disassociated with the structure. None of the cited references, however, are seen to provide an extension means between the loop or other support structure and the material storage reservoir or material distribution means, for at least partially supporting a portion of said container by the material storage reservoir or material distribution means.

Respectfully, and as disclosed in the specification at least with reference to Fig. 5, ref. nos. 175, Fig. 7, Fig. 9, ref. nos. 197, and the corresponding description within the text of the specification, such support means structure is important in certain applications relevant to Applicant's invention to allow the device to remain upright and open so that material flow thereto remains unimpeded, so that the device does not collapse during material flow, and so that the device does not otherwise fold into the material flow. Applicant's support means provides both (i) variable tension as the device is loaded with flowable material to prevent tearing of the bag-like structure, and (ii) affixation of the bag-like structure to support points

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that are non-uniform in elevation with respect to the bag-support surface (e.g., the ground). The Examiner is respectfully reminded, with continuing reference to the disclosure in Applicant's specification, that Applicant's invention is intended to be used in difficult field-based conditions, wherein the material storage reservoir or material distribution means is movable (e.g., a truck discharge chute, pump arm linkage, and the like), often unsteady, variable, and unwieldy. Applicant's invention solves materials filling problems not contemplated by the devices of LaFleur '237, Nattrass '440, and Kim '955, wherein (as best understood by Applicant) said devices are filled in a production line or similar environment, wherein the filling apparatus, bag/device location with respect thereto, pumping/material filling speeds, and the like, are consistent and relatively predictable. In that Applicant's device solves the problems not foreseen by the cited prior art devices, it would be impermissible hindsight for the Examiner to continue to combine the cited references in the present manner.

Additionally, with respect to Meixelsperger et al. (U.S. Pat. No. 6,866,073), it is noted that said patent was filed on April 7, 2003, and that Applicant has claimed priority to U.S. Provisional Application 60/486,961, filed July 14, 2003. Accordingly, Applicant respectfully reserves his right to file an Affidavit or Declaration swearing behind Meixelsperger et al. '073 pursuant to 37 CFR 1.131. In such circumstances, Applicant would respectfully request removal of the Meixelsperger et al. '073 patent as a reference in the instant case.

For at least the above-stated reasons, Applicant respectfully submits that the referenced amended claims are in condition for allowance and respectfully solicits said action.

### CONCLUSION

The above amendments are to form only, and, thus, no new matter was added. In light of the amendments to claims 1, 33, 65, 108, and 110-113, Applicant respectfully submits that all claims of record are allowable and respectfully solicits said action.

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Otherwise, should the Examiner have any questions regarding this submission, he is invited to contact the undersigned counsel at the address or telephone number below.

Respectfully submitted, this 19th day of December, 2007,

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